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Attorney for Defendant and Trial Attorney

UNITED STATES DISTRICT COURT

District of Oregon

Portland Division Oregon

UNITED STATES OF AMERICA

Plaintiff

V.

PLEA

DEFENDANT'S SENTENCING

MEMORANDUM

DANIEL JUNK

Defendant

Case No. 3:23-cr-00085-MO

Defendant by and through his attorney, hereby respectfully submits the following sentencing recommendation in determining a sentence that is “sufficient, but not greater than necessary,” as required by 18 U.S.C. § 3553(a).:

Under 18 USC. 3553(a) the court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed,

shall consider

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed

A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;

(C) to protect the public from further crimes of the defendant; and

(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;

1. Mr. Junk was a minor when this criminal episode began and has struggled with substance abuse and undiagnosed mental health issues (we have a psychological evaluation scheduled for February 5 2024 as outlined in our motion to continue sentencing (document 38 in ECF);

2. It is difficult to determine the motivation of Mr. Junk without the psychological evaluation but for counsel for Mr. Junk this case has been an educational experience of the computer savvy of a much younger generation against the ease in which identity theft can happen. In another time, kids

and young adults of Mr. Junk's age would likely have been engaged in shoplifting or perhaps misuse of a parent's credit card or checkbook. Now with the wide open frontier of the internet it appears that money can be obtained (stolen) with little effort. Such computer savvy of the young and the ease of availability of millions of dollars is a recipe for disaster;

3. Mr. Junk's youth and lack of criminal history weigh against the lengthy prison sentence recommended by the Presentence report;

4. Mr. Junk disagrees with the Presentence report in that Mr. Junk accepted responsibility for his offense and also allowed the Government who with Mr. Junk's consent and admissions has been able to obtain a large amount of money back that will be available to the victims. Mr. Junk in that manner contributed significantly to the Government;

5. Counsel for Mr. Junk has not had an identify theft case of this magnitude but even for significantly smaller cases, it is unlikely that the amount of stolen money obtained and surrendered by Mr. Junk, comes close to a percentage of making the victim's whole as Mr. Junk's consent and remorse have done in the present case;

6. Certainly, this Court can sentence Mr. Junk to a lengthy prison sen-

tence as recommended by the Government and the Presentence report. Such a sentence would not comport with the ends of justice, nor would it serve a deterrent effect on others. People who engage in this type of crime understand the anonymity of their actions and unfortunately, unlike the the perpetrators of shoplifting or misuse of their parent's credit cards, do not have a living breathing victim in their sights. It is information that is readily available unfortunately and subject to such abuse;

7. Of course that does not excuse Mr. Junk's criminal conduct, but for a young man in Mr. Junk's position it does weigh against the prison sentence recommended in the Presentence report and the Government's recommendation. Therefore, Mr. Junk recommends a sentence of 60 months with RDAP, mental health treatment and any and all potential recommendations of the incarceration period. Mr. Junk respectfully requests to amend this sentencing memorandum if the continuance is granted and the psychological evaluation offers further mitigation.

January 24 2024

/s/ John E. Gutbezahl

JOHN E. GUTBEZAHL OSB#940845

Attorney for Defendant